

REMARKS

In response to the Office Action dated September 25 2008 (hereafter "Outstanding Office Action"), requesting election of one of groups I (claims 7, 27, 47, and 67) and II (claims 8, 28, 48, 68), and also one of groups A (claims 14, 34, 54, 74) and B (claims 16, 36, 56, 76), Applicants hereby elects to prosecute Groups I and A. The claims in Groups II and B are placed in Withdrawn status.

Examiner Refai is thanked for the telephone interview of October 27, 2008 in which it was clarified that the Applicant is to elect {group I or II} and {group A or B}.

Both of the two election are made **with traverse**. The grounds for traverse are noted below.

First, Applicants note that 35 U.S.C. § 121, the basis on which the restriction was required, provides for restriction only if two or more "independent and distinct" inventions are claimed in one application. While § 802.01 of the MPEP indicates that a restriction between independent or distinct inventions is permissible, such section of the MPEP is clearly erroneous in view of the plain and unambiguous language of 35 U.S.C. §121.

The Examiner has clearly not met the burden of establishing that the two groups of claims are "independent". MPEP § 806.06 defines Independent Inventions as follows:

Inventions as claimed are independent if there is no disclosed relationship between the inventions, that is, they are **unconnected in design, operation, and effect**. (MPEP § 806.06, ***Emphasis Added***)

The two groups of inventions are clearly connected in design, operation or effect since the claims check **complementing conditions** (e.g., override quantity being associated with the first order, and not being associated with the first order), as is usual in various processing environments. Such processing in complementing conditions is **required for 'connected' operation of embodiments in the relevant arts**.

Secondly, Applicants assert that there is no increased **'serious'** search burden in examining the groups of claims together. In the applicable arts, it is believed that the 'complementing conditions' noted above, are generally searched using similar approaches. When there is no enhanced **serious** search burden, MPEP requires the Examiner not to require
5 restriction even if other conditions are satisfied.

Withdrawal of the restriction requirement and continuation of Examination is respectfully requested at least for one or more of the above reasons. The Examiner is invited to telephone the undersigned representative at 707.356.4172 if it is believed that an interview might be useful for any reason.

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Respectfully submitted,
/Narendra Reddy Thappeta/
Signature
Printed Name: Narendra Reddy Thappeta
Attorney for Applicant(s)
Registration Number: 41,416